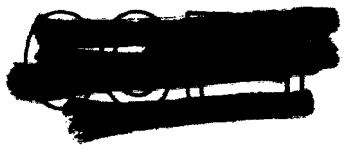

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of WorldCom, Inc. Pursuant	)	
to Section 252(e)(5) of the Communications	)	CC Docket No. 00-218
Act for Expedited Preemption	)	
of the Jurisdiction of the Virginia State	)	
Corporation Commission Regarding	)	
Interconnection Disputes with	)	
Verizon-Virginia, Inc. and for	)	
Expedited Arbitration	)	
	)	
In the Matter of	)	
	)	
Petition of Cox Virginia Telcom, Inc.	)	
Pursuant to Section 252(e)(5) of the	)	CC Docket No. 00-249
Communications Act for Preemption	)	
of the Jurisdiction of the Virginia State	)	
Corporation Commission Regarding	)	
Interconnection Disputes with	)	
Verizon-Virginia, Inc. and for Arbitration	)	
	)	
In the Matter of	)	
	)	
Petition of AT&T Communications of	)	
Virginia Inc., Pursuant to Section 252(e)(5)	)	CC Docket No. 00-251
of the Communications Act for Preemption	)	
of the Jurisdiction of the Virginia State	)	
Corporation Commission Regarding	)	
Interconnection Disputes with	)	
Verizon-Virginia, Inc.	)	

REPLY OF COX VIRGINIA TELCOM, INC.

Cox Virginia Telcom, Inc. ("Cox") hereby submits this Reply to Verizon Virginia Inc.'s Opposition to Motion to Strike of WorldCom, Inc. (the "Opposition"). Cox files this reply for the limited purpose of responding to an argument that Verizon did not make in its opposition to Cox's Objection and Request for Sanctions, but which is of general applicability to this

proceeding.[1] In particular, Verizon argues for the first time that the Commission should not adopt contract language in the order in this proceeding, but instead should only adopt an order that resolves "open *issues,*" and then leave it to the parties to "implement the arbitration order by drafting an interconnection agreement consistent with that order." Verizon Opposition at 7 (emphasis in original). For the reasons described below, the Commission should reject this assertion and, consequently, Verizon's theory that its contract language does not represent its positions in this proceeding.[2]

First, experience shows that the course Verizon proposes inevitably leads to delay and unnecessary expenses for the parties. In the first round of arbitration proceedings in 1996, many states did precisely what Verizon asks here and adopted orders that resolved issues without specifying contract language. In almost every case, the result of those decisions was further litigation over what language should be used to implement the states' arbitration orders. In some cases, this litigation took longer than the original arbitration proceedings. Indeed, the experience of the initial round of arbitrations demonstrated that incumbent local exchange carriers have no more incentive to bargain reasonably after an arbitration than they did before the arbitration. In this context, it would be a serious error to issue an order that does not specify the contractual language to be adopted by the parties.

Second, Verizon's claim is contrary to the basic approach taken by the Commission in this proceeding. The Commission has required each party to submit contract language on six

---

[1] *See, e.g.,* Newhouse Broadcasting Corp., *Memorandum Opinion and Order,* 61 F.C.C.2d 528, 529 (1976), *recon.* 73 F.C.C.2d 186 (1979) (denying motion to strike reply, in part because acceptance would cause no additional delay); Chicagoland TV Company, *Memorandum Opinion and Order,* 45 F.C.C. 2123, 2123-24 (Rev. Bd. 1965) (permitting reply to new issue raised in responsive pleading).

[2] Cox notes that all of the arguments made in Cox's Reply to Verizon's Opposition to the Objection also are applicable to Verizon's theories in the Verizon Opposition to WorldCom's motion. In particular, Verizon has not shown how its testimony could be read to support, let alone disclose, some of the contractual language it submitted in the November Joint Decision Point List.

distinct occasions, beginning with the petitions for arbitration and concluding with the filing of complete contracts in mid-November.[3] If, as Verizon argues, these filings were merely suggestive and were not intended to provide the Commission with language it could choose to adopt in its order, then there would have been no reason to file the proposed language even once, let along six times.

Third, Verizon's citation to the *January 19 Order* does not support its theory that the submitted contractual language is unimportant. Verizon argues that the Commission should not consider the contract language to have any "preclusive effect" because the Commission reserved the right to adopt language different than that proposed by the parties. Verizon Opposition at 7, *citing* Procedures for Arbitrations Conducted Pursuant to Section 252(e)(5) of the Communications Act of 1934, as Amended, *Order,* FCC 01-21, 2001 FCC LEXIS 414 (re. Jan. 19, 2001). This argument compares apples and oranges. It is unremarkable that the Commission would not be bound by the parties' proposals, as the Commission's role is not merely to pick winners and losers, but to ensure that the resulting arbitrated agreement complies with Sections 251 and 252 of the Communications Act. 47 U.S.C. § 252(c)(1) (requiring agreements adopted through arbitrations to conform with relevant law). It would be something else entirely for a *party* not to be bound by its specific proposals. Indeed, there is nothing in any order in this proceeding or in the Commission's rules that would permit any party in this proceeding to walk away from its contractual proposals.

Consequently, there is no basis for Verizon's attempt to disavow the contract language offered in Verizon's Response, in the June Joint Decision Point List and in the September Joint Decision Point List. The Commission should not permit Verizon to further elongate this

[3] In addition to the six filings required of all parties, Verizon also made a separate filing of contractual language for a portion of its proposed AT&T agreement on December 19.

proceeding by insisting that the parties are to negotiate after the Commission's decision is issued. Rather, the Commission should adopt specific contractual language and require the parties to implement that language in their interconnection agreements.

Respectfully submitted,

COX VIRGINIA TELCOM, INC.

Carrington F. Phillip,
Vice President Regulatory Affairs
Donald L. Crosby,
Senior Counsel

Cox Communications, Inc.
1400 Lake Hearn Drive, N.E.
Atlanta, GA 30319
(404) 269-8842

Of Counsel:

J.G. Harrington
Jason E. Rademacher
Dow, Lohnes & Albertson, P.L.L.C.
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
(202) 776-2000

December 21, 2001

CERTIFICATE OF SERVICE

I, Vicki Lynne Lyttle, a legal secretary at Dow, Lohnes & Albertson, PLLC do hereby certify that on this 21st day of December, 2001, copies of the foregoing Reply of Cox Virginia Telcom, Inc. were served as follows:

TO FCC as follows (by hand):

Dorothy T. Attwood, Chief (8 copies)
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Jeffrey Dygert
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Katherine Farroba
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Cathy Carpino
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington D.C. 20554

TO AT&T as follows: (by Overnight Delivery)

David Levy
Sidley & Austin
1501 K Street, NW
Washington, DC 20005

Mark A. Keffer
AT&T
3033 Chain Bridge Road
Oakton, Virginia 22185

TO VERIZON as follows: (by Overnight Delivery)

Richard D. Gary
Kelly L. Faglioni
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

TO VERIZON as follows: (by Hand Delivery)

Karen Zacharia
David Hall
1515 North Court House Road
Suite 500
Arlington, Virginia 22201

TO WORLDCOM as follows (by Overnight Delivery):

Jodie L. Kelley, Esq.
Jenner and Block
601 13th Street, NW
Suite 1200
Washington, DC 20005

Vicki Lynne Lyttle
Vicki Lynne Lyttle